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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,381	04/20/2004	David Lawrence Phillips	16599-US	4821

7590 09/09/2004

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EXAMINER

TORRES, ALICIA M

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/828,381	PHILLIPS, DAVID LAWRENCE
	Examiner Alicia M Torres	Art Unit 3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 20 April 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-22 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/20/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 11, 12, 15 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson.

Johnson discloses an apparatus comprising:

a ladder type chassis (A) having a front end and a rear end;

a pair of front wheels (11) mounted to a pair of front axles mounted to the front end of the chassis (A);

a first row of cutting units (D) mounted to pivotable arms (98) extending from the front of the chassis (A) in front of the pair of front wheels (11);

a second row (C, C') of cutting units mounted to pivotable arms (79, 80) extending from the chassis (A) behind the pair of front wheels (11);

an operator module (13, 14) mounted to the chassis (A) at least primarily behind the second row (C, C') of cutting units;

a pair of driven and steered rear wheels (12) mounted to the chassis (A) adjacent the rear end of the chassis (A) and behind the second row of cutting units (C, C'); and

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a power supply (18) mounted to the chassis (A) adjacent the rear end of the chassis (A) and at least primarily behind the operator module (13, 14) and the pair of rear wheels (12), as per claim 11; and

wherein the chassis (A) includes a left rail (unnumbered) and a right rail (unnumbered), a portion of each rail being under at least one of the operator module (13, 14) and the power supply (18), a portion of each rail adjacent the front end of the chassis being uncovered by either of the operator module (13, 14) and the power supply (18), as per claim 12; and

further comprising a hood (unnumbered, see figure 2) over the power supply (123), the hood having a screened air intake (124), as per claim 15; and

wherein each cutting unit (C, C', D) is only pivotable on at least one horizontal axis (at 105a), as per claim 18.

3. Claims 19, 20 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Coldwell.

Coldwell discloses an apparatus comprising:

a chassis (109, 120) on which an operator module (127, 135) is mounted in front of a power supply (123), the chassis (109, 120) being partially covered by the operator module (127, 135) and the power supply (123);

a front pair of wheels (5) and a rear pair of wheels (121) mounted to the chassis (109, 120), at least one pair of wheels being steerable and driven by the power supply (123); and

a first row (36) and a second row (6) of cutting units mounted on arms extending from the chassis (109, 120), the first row (36) being in front of the front pair of wheels (5) and the second row (6) being behind the front pair of wheels (5);

each of the cutting units (6, 36) being at least primarily uncovered by the operator module (127, 135) and the power supply (123), as per claim 19; and

wherein the chassis (109, 120) includes a pair of rails (unnumbered arms shown in Figure 1), one cutting unit (36) being positioned between the pair of rails, as per claim 20; and

wherein the power supply (123) is primarily behind the rear pair of wheels (121), as per claim 22.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Speiser.

Speiser discloses an apparatus comprising:

a chassis having a front end (159), a rear end (103), a left rail (186), a right rail (185), a pair of front wheels (120, 121) mounted at the front end (159), and a rear wheel (130) mounted adjacent the rear end (103);

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an operator module (140, 150) mounted on the chassis, at least a portion of the left rail (186) and right rail (185) extending from under the operator module (140, 150) to define an uncovered area between the left rail (186) and right rail (185) adjacent the front end (159) of the chassis;

a first row (200, 201) of cutting units in front of the pair of front wheels (120, 121); and
a second row (202) of cutting units behind the pair of front wheels (120, 121), one of the cutting units in the second row (202) being positioned in the uncovered area between the left rail (186) and the right rail (185), as per claim 1; and

wherein the cutting units (200, 201, 202) are reels rotating on generally horizontal axes, as per claim 2;

wherein the cutting units (200, 201, 202) are non-pivotable on a vertical axis, as per claim 10.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include a pair of rear wheels since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Speiser in view of Bednar et al., hereafter Bednar.

Speiser discloses the device as applied above. However, Speiser fails to disclose wherein the cutting units are rotary blades rotating on generally vertical axes.

Bednar discloses a gang mower system wherein the cutting units are rotary blades rotating on generally vertical axes.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the rotary mowers of Bednar on the device of Speiser in order to better cut tall grasses.

7. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Speiser in view of Coldwell.

The device is disclosed as applied above. However, Speiser fails to disclose wherein the pair of rear wheels are driven by a power supply, as per claim 4; and
wherein the power supply is an internal combustion engine, as per claim 5; and
wherein the power supply is at least partially behind the pair of rear wheels, as per claim 6.

Coldwell discloses a similar gang mowing assembly wherein the pair of rear wheels (121) are driven by a power supply (123), as per claim 4; and
wherein the power supply (123) is an internal combustion engine, as per claim 5; and
wherein the power supply (123) is at least partially behind the pair of rear wheels (121), as per claim 6.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the rear mounted engine of Coldwell on the gang mowing assembly to provide weight over the rear axle, balancing the load.

8. Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Speiser in view of Christopherson et al., hereafter Christopherson.

The device is disclosed as applied above. However, Speiser fails to disclose wherein the pair of rear wheels are steered, as per claim 7; and

wherein each of the pair of front wheels are smaller in diameter than each of the pair of rear wheels, as per claim 9.

Christopherson discloses a similar mower wherein the pair of rear wheels (54) are steered, as per claim 7; and

wherein each of the pair of front wheels (46) are smaller in diameter than each of the pair of rear wheels (54), as per claim 9.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the wheel configuration of Christopherson on the mower of Speiser in order to provide better maneuverability.

9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Speiser in view of Ronning.

The device is disclosed as applied above. However, Speiser fails to disclose wherein the uncovered area is at least 5 square feet in size.

Ronning discloses a similar mower apparatus wherein the uncovered area (see figures 1 and 2) is at least 5 square feet in size.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the space of Ronning on the device of Speiser in order to provide sufficient spacing for the mowers so that they won't interfere with each other.

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10. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Worthington '293, as cited by Applicant.

The device is disclosed as applied above. However, Johnson fails to disclose wherein the left rail and right rail are generally parallel to each other and are spaced farther apart from each other adjacent the front end of the chassis than the rear end of the chassis.

Worthington discloses a similar device wherein the left rail (1) and right rail (1) are generally parallel to each other and are spaced further apart from each other adjacent the front end of the chassis than the rear end of the chassis (see figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the frame of Worthington on the device of Johnson in order to better accommodate the weight of the cutting units.

11. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Ronning.

The device is disclosed as applied above. However, Johnson fails to disclose wherein one cutting unit of the second row of cutting units is positioned between the uncovered portions of the left rail and the right rail.

Ronning discloses a similar device wherein one cutting unit (D) of the second row of cutting units is positioned between the uncovered portions of the left rail (56) and the right rail (56).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the center cutting unit of Ronning on the device of Johnson in order to obtain a continuous cutting path.

12. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Gerzanich.

The device is disclosed as applied above. However, Johnson fails to disclose wherein the pair of front wheels are non-driven and non-steered.

Gerzanich discloses a similar vehicle wherein the pair of front wheels are non-driven and non-steered.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the non-powered front wheels of Gerzanich on the device of Johnson in order to provide adequate traction force to the powered wheels.

13. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Speiser.

The device is disclosed as applied above. However, Johnson fails to disclose wherein the operator module is pivotably mounted to the chassis.

Speiser discloses a similar device wherein the operator module (140) is pivotably mounted to the chassis (103).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the pivotable operator module of Speiser on the device of Johnson in order to comfortably accommodate different users.

14. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coldwell in view of Christopherson.

The device is disclosed as applied above. However, Coldwell fails to disclose wherein the back pair of wheels has a larger track width than the front pair of wheels.

Christopherson discloses a similar mower wherein the back pair of wheels (54) has a larger track width than the front pair of wheels (46).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the wheel configuration of Christopherson on the mower of Coldwell in order to provide better maneuverability.

Conclusion

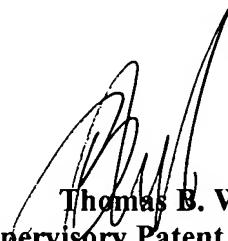
15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Akgulian et al. '337, Short, Langan, and McNutt have been cited as of interest.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alicia M. Torres whose telephone number is 703-305-6953. The examiner can normally be reached Monday through Thursday from 7:00 a.m. – 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-1113. The fax number for this Group is 703-872-9306.



Thomas E. Will
Supervisory Patent Examiner
Group Art Unit 3671

AMT
September 2, 2004